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SAFEWAY INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEBRA HORN,
Plaintiff,
vs.
SAFEWAY INC. and Does 1-50,
Defendants.

Case No. 3:19-cv-02488-JCS

**DECLARATION OF CELIA KETTLE IN
SUPPORT OF DEFENDANT SAFEWAY
INC.'S MOTION FOR PARTIAL
SUMMARY JUDGMENT**

Date: April 30, 2021
Time: 9:00 a.m.
Courtroom: Courtroom F, 15th Floor
Judge: Hon. Joseph C. Spero

Action Filed: March 11, 2019
Notice of Removal Filed: May 8, 2019
Trial Date: September 27, 2021

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I, CELIA KETTLE, declare:

1. Throughout 2016 and 2017, I was employed by Defendant Safeway Inc. (“Safeway”) as an Asset Protection Manager for District 7, which included Store No. 1953 in Dublin, California (the “Dublin store”). I make this declaration in support of Safeway’s Motion for Partial Summary Judgment. I make this declaration of my own personal knowledge and could testify competently thereto under oath if called as a witness.

2. On January 13, 2016, Asset Protection Director Victor Woods forwarded me an email from an African American female customer, dated January 12, 2016, in which she complained about Ms. Horn contacting the police and falsely accusing her of stealing alcohol. She wrote that she and her 14-year-old daughter had been stopped by the police at the Dublin store on January 10, 2016 after they had purchased sandwiches and other items from the deli. A true and correct copy of this email is attached hereto as Exhibit A.

3. I immediately commenced an investigation of this complaint. My investigation, included, among other things, speaking with the customer who informed me that she felt that she and her daughter had been singled out by Ms. Horn based on their race, and interviewing Ms. Horn, who acknowledged contacting the police regarding the customers. I concluded, based on my investigation, that Ms. Horn had violated Safeway’s Shoplifting Deterrence policy by assisting in the detention of a customer. I advised Ms. Horn that she was not authorized to assist in the detention of suspected shoplifters, including by contacting the police.

4. On April 11, 2017, Michael Vasquez, the Store Director for the Dublin store, forwarded me a letter he had received from an attorney retained by two customers of color who had visited the Dublin store. The letter complained about Ms. Horn’s racial profiling of the customers, a false accusation of shoplifting, and a wrongful detention and demanded compensation for civil rights violations. The letter stated, among other things, the following:

I gather from Ms. _____ that you have admitted that the employee who summoned the police did not follow established Safeway procedure before calling the police. The fact seems inescapable that your employee’s decision-making had very little to do with their actual actions, but was largely induced on account of their race. Your employee’s actions were a false report of a crime, and led to Mr. and Ms. _____’s wrongful detention by

the police, their humiliation in front of members of their community during the police interrogation, and were a personal insult to their dignity. And it is not hyperbole to say that Safeway's baseless call to law enforcement brought potentially deadly force into what was in fact a charitable undertaking by our clients.

Our firm has been instructed to file suit against Safeway and the employee for making a false police report, inducing their false detention, and inducing civil rights violations based on race

5. I immediately began an investigation of this complaint. On April 27, 2017, I suspended Ms. Horn's employment pending the completion of my investigation. Based on my investigation, I concluded that Ms. Horn had spoken to the police, accused the customers of an intent to shoplift without basis or authorization, and that she violated multiple Safeway policies, including, once again, the Shoplifting Deterrence policy. I reported my findings to District Manager Kevin Lovell.

6. During this period of time (2016-2017), and at the time I conducted the investigations discussed above and made the decision to suspend Ms. Horn's employment, I was not an officer or director of Safeway Inc. I also did not have the authority to make, modify and/or deviate from corporate policy. Rather, I implemented the company's directives that were set and established by others in a manner that complied with and was consistent with corporate policy. My job responsibilities included making sure that the policies created and established by others were followed. I also did not have the authority to hire or terminate the employment of any employees.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed this 25 day of February, 2021 in Pleasanton, California.

Celia Kettle

CELIA KETTLE

EXHIBIT A

Ex #2

Fwd: Distraught Customer

VW

Victor Woods

Reply all |

To:

...

Wed 1/13/2016 10:35 AM

Please call the customer today and assure her that you will look into this.

*Victor Woods
Director, Asset Protection
Albertsons Safeway Norcal Division
Office (925) 467-3274 or Fax (623) 336-6119*

Begin forwarded message:

From: Business Ethics <Business.Ethics@safeway.com>
Date: January 13, 2016 at 10:15:19 AM PST
To: Victor Woods <victor.woods@safeway.com>
Subject: FW: Distraught Customer

Hello,

From the Business Ethics Email.

Thank you,
Emma Gomez

From: [REDACTED]@[REDACTED]
Sent: Tuesday, January 12, 2016 7:31 PM
To: Business Ethics
Subject: Distraught Customer



Dear: SafeWay Corp.

On January 10th 2016 around 7:20pm My 14 year old daughter [REDACTED] and I went to Safeway in Dublin off Dublin Blvd and Amador plaza to buy sandwiches and to get something to drink and some other items. So we picked up a few bottles of water and some detergent after our sandwiches were

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made and preceded to the self-checkout or either the other open checkout lines. I notice that the lines were a little long, so I went to deli to pay for my items which I know I can and after I got my bag We left out the store and I got half way to my car and my daughter notice that a lady was outside the store streaming, she had on a football jersey shirt and she had a cell phone in her hand, I told my daughter maybe she is having a loud conversation over the phone and didn't think nothing of it. So as I was backing out of the stall a couple seconds later Dublin PD pulled up behind me with flashing lights he got out of is cruiser with his hand on his gun, and he told me to pull back into the stall which I did, we was petrified I didn't know what was going on and my daughter stated are they going to shoot us. My mind went to racing because It could happened this day in time. The officer approach my vehicle and he told me that the lady in the store (Deborah) said that I had stolen some liquor which I did not know what she was talking about the only thing we bought was the deli sandwiches and water which I told the officer and he asked me do I have my receipt so I gave him my receipt and he told me to pull out my driver's license, at this moment i was so afraid that I had to reach in my purse. I noticed another cop approach on the passenger side which my daughter was sitting. I gave my license to the second cop and the first officer he went back into the store to verify that I made my purchases and he came back and said he did not see the person and i told him that the cashier at the deli was a Hispanic male. While waiting and getting upset for being falsely accused of something I will never do. The first officer came back and apologizes for what had happened. He told me that the lady known as Deborah self-checkout clerk approach his vehicle flagging him down saying that they had stolen liquor and stuff that's what the officer told me and that she made it seem like we did more than what she was accusing us of the officer said. The store manager Michael Vasquez approach my vehicle and told me he apologize for what happen and that he talked to Deborah the checkout clerk and told her that she cannot accuse somebody of stealing if she haven't seen them steel anything. He apologize again and said if anything we need let him know and not once did Deborah came to apologize for what she falsely accused my daughter and I of, that could put our life's in danger. I've been coming to Safeway in my neighborhood for 13 years and I refuse to go out my way to another store because she's still employed at that location. We were not just embarrassed we were humiliated that this had to happen in front of a parking lot full of people. Im a business owner myself and I would not accuses a customer of stealing, I would do my inventory and find out what was missing view the video and contact the authorities, to just accuses someone of doing something they did not like this was Salem in the 1800's.

P.S I would like to be contacted ASAP.

Sincerely,

Mrs [REDACTED]

925 [REDACTED]

email [REDACTED]@ [REDACTED] <mailto:[REDACTED]@ [REDACTED]>

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